

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Project File Number, Description, and Location

CP02-026 CONDITIONAL USE PERMIT for a project located on the north side of Capitol Expressway approximately 200 feet easterly of Old Almaden Road (919 W. Capitol Expressway) on a 4.5-gross-acre site in the CG Commercial Zoning District, to allow demolition of an existing automobile dealership (Capitol Ford) and construction of an approximately 65,200-square-foot facility for automobile sales and service (Simon and Phyllis Kleinman, Owners; Sonic Automotive Group, Developer).

Council District: 6.

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an [initial study](#), the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on October 8, 2002, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on September 19, 2002 and ends on October 8, 2002.

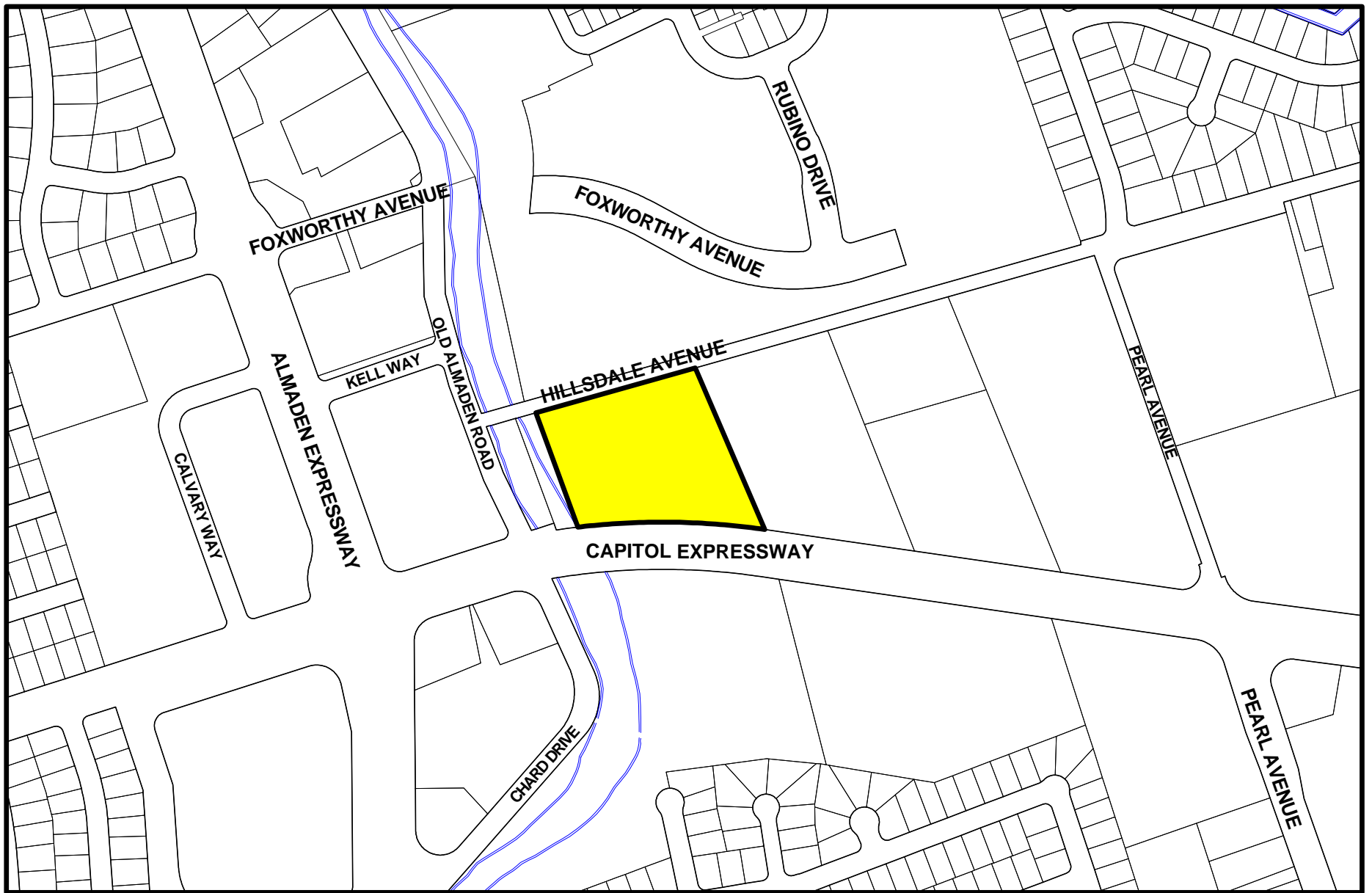
A public hearing on the project described above is tentatively scheduled for **October 9, 2002 at 6:00 PM** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, [initial study](#), and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Pearl Branch Library, 4270 Pearl Avenue, San Jose, and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/MND2002.htm>. Adoption of a Mitigated Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately, as required by City ordinance. For additional information, please call Darren McBain at (408) 277-8567 or darren.mc Bain@ci.sj.ca.us

Stephen M. Haase, AICP
Director, Planning, Building, and Code Enforcement

Ron Eddow

Circulated on: September 18, 2002

Deputy



Scale: 1"=400'

File No: CP02-026

District: 06

Quad No: 114

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. “Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT FILE NUMBER: CP02-026

NAME OF PROJECT: Friendly Ford

PROJECT DESCRIPTION: CONDITIONAL USE PERMIT to allow demolition of an existing automobile dealership (Capitol Ford) and construction of an approximately 65,200-square-foot facility for automobile sales and service

PROJECT LOCATION & ASSESSORS PARCEL: North side of Capitol Expressway approximately 200 feet easterly of Old Almaden Road (919 W. Capitol Expressway); Assessor’s Parcel Number 455-04-003

COUNCIL DISTRICT: 6

NAME OF APPLICANT: Simon and Phyllis Kleinman

APPLICANT’S MAILING ADDRESS AND PHONE NO.:

P.O. Box 2909, Saratoga CA 95070; (408) 267-4130

FINDING: The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment, in that the attached [initial study](#) identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less-than-significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS-THAN-SIGNIFICANT LEVEL

1. **Aesthetics:**

- a. **Light and Glare:** Downward-directed lights in the parking and automobile display areas and downward-directed streetlights along Capitol Expressway Auto Mall shall be provided in order to prevent offsite glare.
- b. **Temporary Construction Visual Impacts:** Public streets that are impacted by project construction activities shall be swept and washed down daily. Debris, rubbish and trash shall be cleared from any areas onsite that are visible from a public street.

Air Quality

Temporary Construction Air Quality: A Construction Air Quality Plan shall be developed and implemented for dust control to include dust suppression practices such as: 1) frequent watering; 2) damp sweeping of haul routes, parking and staging areas; 3) installation of sandbags or other erosion control measures to prevent silt runoff to public roadways; 4) vehicle speed controls; 5) watering or the use of soil stabilizers on haul routes, parking and staging areas; 6) prohibition of grading during high winds; 7) hydroseeding areas where grading is completed or inactive; 8) covering of stockpiles and loads in haul vehicles; 9) maintaining at least two feet of freeboard in all haul vehicles; 10) limiting the area being graded at a given time; 11) monitoring of particulate levels; and 12) enforcement measures.

2. Biological Resources

a. Riparian Corridor:

- A City-approved erosion control plan shall be developed and implemented with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences.
- A 30-foot riparian corridor setback shall be established along the Guadalupe River.
- A City approved Mitigation and Monitoring Plan shall be developed and implemented that at a minimum details the plant mix (native plants consistent with this reach of the Guadalupe River), planting location, the success criteria and the monitoring schedule of the setback area.

b. Raptors/Burrowing Owls:

- A pre-construction survey, based on accepted protocols, for nesting raptors (including both tree and ground nesting raptors) shall be conducted by a qualified ornithologist in areas along the Guadalupe River within 30 days prior to the onset of site disturbance, if ground disturbance is to occur during the breeding season (February through July).
- A ground disturbance-free setback zone to be determined by the ornithologist in consultation with the CDFG (usually a minimum of 250 feet) shall be established around any active raptor nests on or adjacent to the site; the setback shall be temporarily fenced; and no construction equipment or workmen shall enter the enclosed setback until the conclusion of the breeding season.

3. Cultural Resources

Archaeology:

- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California: In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified by the developer and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner shall

reinter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- Any areas where new construction is to occur that would disturb soils below approximately 24 inches shall be monitored by a qualified professional archaeologist to search for the presence or absence of prehistoric cultural resources.
- Should evidence of prehistoric cultural resources be discovered during monitoring, work shall be stopped to allow adequate time for evaluation and mitigation; the material shall be evaluated; and if significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility shall be developed and implemented under the direction of the Director of Planning, Building and Code Enforcement.
- Any Native American human remains that are discovered and would be subject to disturbance shall be removed and analyzed, a report shall be prepared, and the remains shall be reburied in consultation and agreement with the Native American Most Likely Descendant designated by the Native American Heritage Commission.

4. Geology and Soils

- a. **Seismic Shaking:** The project shall be designed and constructed to ensure structural stability as required by the earthquake design regulations of the Uniform Building Code.
- b. **General:** All earthwork and foundation plans and specifications shall comply with the recommendations of the geotechnical investigation by KC Engineering Company. The geotechnical investigation lists approximately 40 recommendations that are included in the project for demolition, grading, surface drainage, foundations, slab-on-grade construction, pavement areas, retaining walls and utility trenches, most of which reflect standard engineering practices that are not required to mitigate environmental impacts. The recommendations that specifically address potential geotechnical hazards found on the site are included below.
- c. **Expansive Soils:**
 - A deepened spread footing foundation system in conjunction with slab-on-grade construction shall be utilized.
 - Drainage shall be controlled away from all structures and pavements.
- d. **Erosion:** A City approved erosion control plan shall be developed and implemented with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences.

Hazards and Hazardous Materials

- a. **General:** The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility.
- b. **Asbestos-Containing Materials:** The structures to be removed shall be surveyed for the presence of asbestos-containing materials at the demolition permit stage; and if any suspect ACM are present, they shall be sampled prior to demolition in accordance with NESHAP guidelines, and all potentially friable ACM shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with NESHAP and Cal-OSHA requirements.
- c. **Lead-Based Paint:** The structures to be removed shall be surveyed for the presence of lead based paint at the demolition permit stage; and if any suspect LBP is present, it shall be sampled prior to demolition, and all potential LBP shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with EPA and OSHA requirements.

5. Hydrology and Water Quality

- a. **Water Quality:** A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities and non-stormwater management controls, shall be submitted to the RWQCB to comply with the stormwater discharge requirements of the NPDES General Permit.
- b. **Flooding:**
 - Buildings shall be designed so that the finished floor is elevated above the projected FEMA flood level.
 - A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMP) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.

6. Noise

- a. **Interior Noise:**
 - Mechanical ventilation shall be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control.
 - Windows shall be maintained closed and appropriate STC-rated windows shall be installed at all offices having a direct or side view of Capitol Expressway Auto Mall.

b. **Project-Generated Noise:**

- A 12-foot-high masonry wall shall be constructed along the northerly site boundary, between the project and adjacent planned residential uses.
- Vehicle washing equipment shall be installed at the back of the car wash (facing north) and drying equipment shall be installed facing Capitol Expressway Auto Mall, allowing for door-down operation as necessary.

- c. **Temporary Construction Noise:** Noisy construction operations shall be scheduled for the daytime hours of 7:00 a.m. to 7:00 p.m. Monday through Friday so as to avoid the more sensitive evening, nighttime and weekend hours.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 8, 2002**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, Director
Planning, Building, and Code Enforcement

Ron Eddow

Circulated on: September 18, 2002

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

The Planning Commission of the City of San Jose will hold a public hearing on **Wednesday, October 9, 2002**. This public hearing will be held in accordance with Title 20 of the San Jose Municipal Code.

The public hearing is to be in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California, at **6:00 p.m.** or as soon thereafter as this item can be heard. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.

The decision of the Planning Commission may be appealed in accordance with the requirements of the San Jose Municipal Code. Instructions for filing an appeal are available from the Department of Planning, Building and Code Enforcement.

The project being considered is:

CP02-026 CONDITIONAL USE PERMIT for a project located on the north side of Capitol Expressway approximately 200 feet easterly of Old Almaden Road (919 W. Capitol Expressway) on a 4.5-gross-acre site in the CG Commercial Zoning District, to allow demolition of an existing automobile dealership (Capitol Ford) and construction of an approximately 65,200-square-foot facility for automobile sales and service (Simon and Phyllis Kleinman, Owners; Sonic Automotive Group, Developer). Council District: 6. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576

www.ci.san-jose.ca.us/planning/sjplan/

A staff report with recommendations will be available for your review during the week of the Public Hearing at the Department of Planning, Building and Code Enforcement.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 277-4576 (VOICE) at least 48 hours before the meeting.

Comments and questions are welcome and should be referred to the project manager, **Darren McBain**, of the Department of Planning, Building and Code Enforcement at 277-8567 or darren.mcbain@ci.sj.ca.us. Please refer to the above file number for further information on this project. For your convenience, contact Linda LaCount at 277-4576 the week of the public hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP, Director
Planning, Building and Code Enforcement

Mike Enderby, Senior Planner
Dated: September 16, 2002